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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,527	08/10/2001	Roger S. Vickers	13746	4738
293	7590	05/03/2004	EXAMINER	
DOWELL & DOWELL PC SUITE 309 1215 JEFFERSON DAVIS HIGHWAY ARLINGTON, VA 22202			GREGORY, BERNARR E	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,527

Applicant(s)

VICKERS, ROGER S.

Examiner

Bernarr E. Gregory

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23,25-62,64-82,85-99,101-103 and 105-112 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23,25-62,64-81,85-96,98,99,101-103 and 105-111 is/are allowed.
- 6) ☒ Claim(s) 82,97,112 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 1-23, 25-62, 64-81, 85-96, 98, 99, 101-103, and 105-111 are allowable over the prior art of record.


2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 82, 97, and 112 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Each of claims 82, 97, and 112 is directed to a claim for a "signal embodied in a propagation medium," but this fails to fall into any of the statutory classes of invention of 35 USC 101. The Computer-Related Invention Guidelines as set forth in Chapter 2100 of the MPEP do permit a claim where computer code or software is embodied on a tangible computer-readable medium, but it does not permit a claim of a signal, code, or software existing within a propagation medium. The concept of a computer-readable medium is meant to include solid media, such as floppy disks, CD ROM's, and memory devices; however, a "propagation medium" as claimed in claims 82, 97, and 112 would appear to mean a different sense of the word "medium," referring to material through which waves travel. Thus, using the Computer-Related Invention Guidelines as set forth in Chapter 2100 of the MPEP, claims 82, 97, and 112 are software per se since there is no embodiment on a tangible computer-readable medium with the meaning of the official USPTO Guidelines.

4. The Examiner in charge of this application is Bernarr Gregory, whose telephone number is (703) 306-5765.



Bernarr E. Gregory
Primary Examiner
Art Unit 3662